

# **Redline of Certain Changes Made to Local Bankruptcy Rules as Submitted to District Court on March 24, 2011**



***This document summarizes some of the changes made to the proposed Local Bankruptcy Rules after they were posted for public comment and prior to final approval by the District Court. This document is being provided for convenience of comparison and should not be relied upon for any other reason. To the extent that this document conflicts with the Local Bankruptcy Rules, the Local Bankruptcy Rules shall govern.***

## **Rule 1007-1 MAILING MATRICES**

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(f) If ~~schedules are amended to add~~ one (1) or more creditors ~~is added to the creditor maintenance system in CM/ECF~~, the debtor shall file Local Bankruptcy Form 30 (Notice Regarding Modification to Mailing Matrix) on the CM/ECF System. After docketing Local Bankruptcy Form 30, the debtor shall upload into the CM/ECF System a supplemental Mailing Matrix as a text file containing only the names and addresses of the added creditors.

## **Rule 1007-4 PROOF OF INCOME**

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(b) Each individual debtor shall also report to the trustee not later than fourteen (14) days before the date first set for the first meeting of creditors any other source of income not listed on debtor's ~~federal income tax return or~~ payment advices.

**Rule 2015-1 DUTY TO KEEP RECORDS, FILE REPORTS, AND MAKE PAYMENTS, INCLUDING TAXES-**

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(e) Where applicable, a debtor in possession or a trustee in a chapter 11, a chapter 12 debtor, or a chapter 13 debtor case shall comply with the following:

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~~(4) Submit to the Internal Revenue Service Insolvency Unit, at the address listed on the Address Appendix, a tax accounting on appropriate form, and remit via a certified or cashier's check in full payment of the employee's and employer's FICA (Social Security) taxes and the employee's income taxes accrued as a result of the payment of wages, no later than the end of the second business day after the payment of wages to the employees. In the case of self-employed debtors, estimated income tax payments to the IRS are to be submitted on or before April 15, June 15, September 15, and January 15 during the life of any chapter 11, 12, or 13 confirmed plan accompanied by the appropriate form.~~

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~~(7) Timely file all federal, state, and local tax returns with the applicable taxing bodies during the pendency of the bankruptcy case.~~

**Rule 2016-1**

**PROFESSIONAL FEES AND EXPENSES**

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(b) No compensation or expenses will be allowed, or paid by the estate or any third-party source, to any professional for services rendered in any case unless:

- (1)- a motion to approve employment has been filed; and
- (2)- an order granting the motion has been entered prior to performing the services for which payment is requested, ~~except that counsel for debtors in chapter 13 cases are not required to file such a motion or obtain such an order.~~

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(f) ~~For chapter 13 cases filed after January 1, 2008, the~~ The maximum attorney fee is presumed to be ~~the rate published by the Court from time to time~~ be \$3,700.00, otherwise referred to as the “no-look fee.” When the fee charged by counsel is less than or equal to the no-look fee, no fee application is required. Furthermore, the no-look fee:

~~(1) may be periodically adjusted by the Court;~~

~~(21)~~— shall include any retainer received;

— ~~(32)~~— is exclusive of allowable and reasonable expenses incurred by counsel; and

~~(43)~~ does not preclude the award of additional fees by the Court upon the filing of a fee application; however, in order to “opt out” of the no-look fee provisions of this Local Bankruptcy Rule:

- (A) counsel shall enter into a written fee agreement which shall provide the alternative of opting out of the no-look fee compensation option and for payment of additional fees in the event of unforeseen, future case complications; and
- (B) to the extent counsel seeks such additional compensation, counsel is required to file a cumulative fee application subject to the other provisions of this Local Bankruptcy Rule.

## **Rule 3002-1 FILING CLAIMS**

(a) If the amendment adding creditor(s) to schedules is filed after the claims bar date has expired or will expire within thirty (30) days of the amendment, the affected creditor(s) shall file a proof of claim within thirty (30) days of the date notice of the amendment is sent.

~~(b) All proofs of claim shall conform substantially to the Official Form.~~

~~(c)~~ A wage claimant who files a proof of claim listing the redacted Social Security number shall provide the full Social Security number to the trustee upon the trustee's written request. The trustee shall inform the wage claimant that the full Social Security number shall not be filed with the Court.

**Rule 3002-3 ADDITIONAL REQUIREMENTS FOR CLAIMS IN CHAPTER 12 AND 13 CASES**

(a) Subject to the requirements of Fed. R. Bankr. P. 9037, the following shall be included in the claim form:

- (1) Creditor's account number conspicuously stated.
- (2) Sufficient identification of collateral.
- (3) A holder of a claim secured by real property must separately state the following:
  - (A) arrearage, late fees, attorney's fees and foreclosure costs incurred through the date of filing of the debtor's bankruptcy petition, principal balance, applicable interest rate and amount of the regular monthly payment.
  - (B) if regular payment includes an escrow component, it ~~should~~shall be clearly identified and the amount stated.
  - (C) the Mortgage and Note and any Assignments of Claim ~~should~~shall be attached to the claim.
  - (D) any postpetition arrearage must be separately stated and itemized.

(b) Claims resulting from the rejection of an executory contract shall be filed and served on the chapter 13 trustee, the debtor, and debtor's attorney, if represented, by the later of the claims bar date or thirty (30) days after the date of rejection. Executory contracts may be rejected in the confirmed plan.

(c) Any creditor who asserts a deficiency shall file a proof of claim or amend a filed proof of claim to assert the deficiency.

(d) If an amended proof of claim is filed after the deadline for filing claims, such claim shall be served by the creditor on the chapter 13 trustee, the debtor, and debtor's attorney, if represented.

(e) All objections to the amended proof of claim shall be filed and served within fourteen (14) days after service plus an additional three (3) days if served by mail.

(f) The chapter 13 trustee will promptly place all funds intended for a specific creditor on reserve ~~until further order of Court:~~

- (1) upon notice from an assignor or transferee that a claim has been transferred;
- (2) whenever the trustee receives:
  - (A) a returned check;
  - (B) a statement from a creditor indicating that the account has been assigned;
  - (C) a statement from a creditor indicating that the account has been paid in full; or

(D) any other statement from a creditor indicating that the creditor is not owed anything on a claim; or

(3) in any circumstance where a creditor seeks to change the payee name for a claim.

(g) Within twenty-one (21) days of placing funds on reserve, the chapter 13 trustee shall file a “Notice of Funds on Reserve” with the Court which certifies that the debtor(s), the original creditor, the putative creditor, and if known, counsel for the debtor(s), original creditor and putative creditor were served with the Notice and the date of such service.

(gh) No funds will be distributed by the chapter 13 trustee to any purported assignee or transferee without a “transferred proof of claim” filed in accordance with Fed. R. Bankr. P. 3001(e) and notice issued in accordance therewith by the Clerk with an opportunity to object.

(hi)—— Transferred or assigned proofs of claim shall include the following:

- (1) the case number;
- (2) the claim to be paid;
- (3) the nature of the collateral supporting the claim;
- (4) the appropriate address for payment;
- (5) copies of all assignments and authorizations for loan service applicable to the transfer and in support of the claim.

(ij) Copies of each proof of claim and each amended, assigned, and/or transferred proof of claim, including all attachments, shall be served on the chapter 13 trustee, the debtor, and the debtor’s counsel, if represented.

**Rule 3002-4 NOTICE OF MORTGAGE PAYMENT CHANGE**

Deleted.

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## **Rule 3003-1 PROOFS OF CLAIM BAR DATE IN CHAPTER 11 CASES**

The ~~Clerk shall set a~~ deadline for creditors other than governmental units ~~that~~to file proofs of claim in chapter 11 cases is ninety (90) days after the first date set for the meeting of creditors ~~to file proofs of claim in chapter 11 cases.~~

## **Rule 4002-1 PROOF OF FEDERAL INCOME TAX RETURNS**

~~(a) The debtor shall provide to the trustee not later than fifteen (15) days before the date first set for the first meeting of creditors a paper copy of the federal income tax return required under applicable law (or, at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a federal income tax return was filed. If a federal tax return was not filed, the debtor shall submit a statement with the trustee not later than fifteen (15) days before the date first set for the first meeting of creditors which informs the trustee that a federal tax return is not available and the reason.~~

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## **Rule 5005-11 COURT-ISSUED DOCUMENTS**

- (a) All orders, decrees, judgments, and proceedings of the Court shall be filed through the CM/ECF System, constituting entry on the docket pursuant to Fed. R. Bankr. P. 5003 and 9021.
- (b) Any order or other Court-issued document filed electronically without the original signature of a Judge or the Clerk has the same force and effect as if the Judge or Clerk had physically signed the document.
- (c) ~~Except as may be otherwise provided in the Federal Rules of Bankruptcy Procedure,~~ orders may be issued as “text-only” entries on the docket, without an attached document. Such orders are official and binding.

**Rule 5005-21 TECHNICAL FAILURES OF THE CM/ECF SYSTEM**

A Filing User whose filing is made untimely as a result of a technical failure of the CM/ECF System may seek appropriate relief from the Court.

**Rule 5095-1- ~~FUNDS DEPOSITED WITH THE COURTS~~ (OTHER THAN UNCLAIMED FUNDS)  
INTO A REGISTRY FUND**

(a) A motion seeking Court approval of deposits into a registry fund shall be filed with the Court. The Clerk will not accept funds for a registry account without an order of Court.

(b) Upon entry of an order allowing the deposit of funds, the Clerk shall place the funds in a depository that will provide collateral for the full amount of the deposit. The Clerk shall not accept the funds until adequate collateral is pledged by the depository.

(c) An administrative handling fee will be assessed and funds will be withdrawn from each invested account at a rate established by the Judicial Conference of the United States.

**Rule 5095-2 ~~MOTION FOR DISBURSEMENT OF ESTATE FUNDS WITHDRAWALS (OTHER THAN UNCLAIMED FUNDS) FROM A REGISTRY FUND~~**

(a) In order to withdraw deposited funds, a motion for disbursement of invested registry funds and a proposed order must be filed. The proposed order for disbursement of invested registry funds shall include the name and address of the payee(s) and the total amount of the principal and interest (if the interest is not known, the order may read “plus interest”) which will be disbursed to each payee. Interest will be distributed pro rata among the payees unless the motion requests and the order signed by the Court provides otherwise. The proposed order shall specify whether the payment is to be delivered to the payee or to counsel.

(b) The tax identification number or Social Security number of each payee receiving earned interest shall be provided to the Clerk in compliance with the Clerk’s instructions. No disbursement shall be made until the Clerk receives this information and any other information concerning payment required by the Internal Revenue Service.

## **Rule 7026-2 ELECTRONIC DISCOVERY SPECIAL MASTER**

Any party may request, and the Court may order, *sua sponte*, that any dispute concerning electronic discovery be referred to an Electronic Discovery Special Master, pursuant to United States District Court for the Western District of Pennsylvania, General Order No. 2:11-mc-94 (In Re: Use of Special Masters for Electronic Discovery by United States Bankruptcy Judges).

## **Rule 9010-1 ADMISSION TO PRACTICE**

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(b) No one, other than an attorney regularly admitted to practice in this Court, shall appear in any proceeding except upon motion filed with the Clerk and order entered by the Court. Every motion to be admitted *pro hac vice* shall be signed and filed by an attorney admitted to practice in this District. The motion shall substantially conform to Local Bankruptcy Form 18 (Motion for *Pro Hac Vice* Admission). The party seeking *pro hac vice* admission shall pay ~~all~~the required fees of \$40.00 contemporaneously with filing the motion. If a motion for *pro hac vice* is made orally in open Court, it shall be followed promptly by the filing of a written motion signed by local counsel and the applicant. The Court may require counsel to provide evidence of admission in another district. An attorney admitted *pro hac vice* and local counsel shall appear at Court hearings and be prepared to address all issues set for argument.

## **Rule 9013-5 SCHEDULING HEARINGS**

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(b) The moving party shall serve all parties in interest with the motion, proposed order, and notice of hearing. For chapter 7 final accounts and proposed distributions, use Local Bankruptcy Form 23 (Notice of Filing of Final Account of Trustee, of Hearing on Applications for Compensation, Proposed Final Distribution and Proposed Abandonment of Property). For fee applications in chapter 7 and 13 cases, use Local Bankruptcy Form ~~248~~ (Summary Cover Sheet and Notice of Hearing on Professional Fees in Chapters 7, 12 and 13). For fee applications in chapter ~~9, 11;~~ and ~~125~~ cases, use Local Bankruptcy Form 9 (Summary Cover Sheet).